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*ATTORNEYS FOR PLAINTIFF*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

Case No. 2:16-cv-00578-JAD-PAL

BARRY MICHAELS on behalf of himself  
and all others similarly situated,

Plaintiffs,

vs.

LORETTA LYNCH, as Attorney General of  
THE UNITED STATES OF AMERICA and

THOMAS E. BRANDON, as DEPUTY DIRECTOR,  
HEAD OF THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS AND EXPLOSIVES,

Defendants

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**PLAINTIFF'S SECOND *CONSENT/UNOPPOSED* MOTION TO ENLARGE TIME  
TO RESPOND TO DEFENDANTS' MOTION TO DISMISS**

COMES NOW the above named Plaintiff, by and through his undersigned attorney of record MICHAEL E. ZAPIN, pursuant to Local Rule 7.2 and Rule 6(b) of the Federal Rules of Civil Procedure, and files this *consent/unopposed motion* to extend plaintiff's time to respond to defendants' pending motion to dismiss up through and including September 8, 2016, and respectfully sets forth the following:

### **I. PROCEDURAL BACKGROUND**

1. Plaintiff filed his complaint against the defendants on March 15, 2016 [DE 1].
2. Defendants filed an *unopposed/consent* motion to extend their time to answer or otherwise move with respect to service of plaintiff's complaint, and same was granted by 6/23/2016 Order of the Court up through 7/25/16 [DE 17].
3. Defendants served their motion to dismiss plaintiff's complaint on 7/25/2016 [DE 19], and the docket entry indicated that "Responses [were] due by 8/11/2016."
4. Plaintiff filed one prior unopposed/consent motion, which was granted by the Court by Minute Order dated 8/12/2016[DE 22], extending plaintiff's time up through and including today, August 25, 2016.

### **II. "GOOD CAUSE" FOR REQUESTED EXTENSION**

5. Local Rule 7-2(b) provides in pertinent part, that "points and authorities in response to a motion shall be filed and served by an opposing party fourteen (14) days after service of the motion."
6. Rule 6(b)(1) of the Federal Rules of Civil Procedure, provides, in pertinent part:

(b) Extending Time.

(1) *In General*. When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

7. Plaintiff submits that the within application is timely made and that the circumstances described herein constitute “good cause” to extend counsel’s time an additional 14 days, up through and including September 8, 2016, to respond to defendants’ motion to dismiss.
8. The constitutional issues raised in this litigation and sought to be dispensed with by the defendants’ pending motion, arguably concern core, fundamental rights belonging to the plaintiff. There are unique arguments that will be presented to the Court for its consideration, and plaintiff needs the additional time to frame and consolidate those arguments. Plaintiff believes that the Court’s recognition and resolution of those arguments will not only be dispositive to the parties in the instant action, but will also resonate among various districts and circuits that continue to grapple with these issues in a *post-Heller* setting.
9. Defendants will not be prejudiced by the granting of the within requested relief. Undersigned counsel has conferred with defendants’ counsel, Daniel Reiss, Esq., via email, who has indicated his consent to the relief requested herein. On the other hand, plaintiff would be substantially prejudiced if the within requested relief were not to be granted, since the Court would likely grant defendant’s motion on the basis of default,

